

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:10CV75-03-MU

BILLY RAY LOCKLEAR,)	
)	
Plaintiff,)	
)	
v.)	<u>O R D E R</u>
)	
BOYD BENNETT et. al.,)	
)	
Defendants.)	
)	

THIS MATTER comes before the Court on remand from the Fourth Circuit Court of Appeals. On April 19, 2010, this Court dismissed Plaintiff's Complaint for failure to exhaust his administrative remedies. (Doc. No. 7). On February 2, 2011, the Fourth Circuit remanded Plaintiff's case because his Complaint indicated that he had not fully exhausted his administrative remedies with respect to one of his claims. (Doc. No. 15). Plaintiff is now directed to delineate or list his specific claims contained in his Complaint and also to identify which one of his claims contained in his Complaint filed March 29, 2010 is not fully exhausted and likewise identify those claims that he believes have been exhausted. The Court notes that a claim must be exhausted at the time the lawsuit was filed. Johnson v. Jones, 340 F.3d 624 (8th Cir. 2003). Plaintiff shall comply with this Order within twenty (20) days of the date of this Order. Failure to file a document in response to this order within twenty (20) days may result in the dismissal of this case.

THEREFORE, IT IS ORDERED that:

- (1) Within twenty days of the date of this Order, Plaintiff shall list what his specific claims are from his Complaint. Plaintiff shall identify which one of his claims has not been exhausted as of the date of the filing of his Complaint and shall also list his

claims that have been exhausted. Plaintiff is limited to only those claims included in his original Complaint filed on March 29, 2010 and may not add any new claims.

- (2) Failure to comply with this Order within the time specified may result in the dismissal of this action.

SO ORDERED.

Signed: March 3, 2011



Graham C. Mullen
United States District Judge

